



BOARD OF APPEALS
Diane R. Gordon, Co-Chair
Harry Miller, Co-Chair
Bailey S. Silbert

Town of Brookline

Massachusetts

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Patrick J. Ward, Secretary

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. BOA070003

Petitioner, John Pound applied to the Board of Appeals for zoning relief to construct a garage and driveway within the front yard setback to allow for the onsite parking of two vehicles.

On January 25, 2007, the Board of Appeals met and determined that the properties affected were those shown on a schedule in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals and fixed February 15, 2007, at 7:00 p.m. in the Selectmen's Conference Room on the sixth floor of the Town Hall as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioners, to the owners of the properties deemed by the Board to be affected as they appeared on the most recent local tax list, to the Planning Board and to all others required by law. Notice of the hearing was published February 1 and 8, 2007 in the Brookline Tab, a newspaper published in Brookline. Copy of said notice is as follows:

TOWN OF BROOKLINE
MASSACHUSETTS
BOARD OF APPEALS
NOTICE OF HEARING

Pursuant to M.G.L., C.39, sections 23A & 23B, the Board of Appeals will conduct a public hearing to discuss the following case:

Petitioner: **JOHN POUND**

Location of Premises: **53 WESTBOURNE TER BRKL**

Date of Hearing: **02/15/2007**

Time of Hearing: **07:00 p.m.**

Place of Hearing: **Selectmen's Conference Room, 6th. Floor**

A public hearing will be held for a special permit and/or variance from:

- 1) **5.43; Exceptions to Yard and Setback Regulations, Special Permit Required.**
- 2) **5.50; Front Yard Requirements, Variance Required.**
- 3) **5.51; Projections into Front Yards, Variance Required.**
- 4) **5.52; Fences and Terraces in Front Yards, Variance Required.**
- 5) **5.53; Accessory Buildings in Front Yards, Variance Required.**
- 6) **5.60; Side Yard Requirements, Variance Required.**
- 7) **5.61; Projections into Side Yards, Variance Required.**
- 8) **5.63; Accessory Buildings or Structures in Side Yards, Variance Required.**
- 9) **For the Design of Off-Street Parking Facilities:**
 - 6.04.4.d.f; Special Permit Required.**
 - 6.04.5.c.1; Variance Required.**
 - 6.04.5.c.2; Variance Required**
 - 6.04.9.b; Variance Required.**
 - 6.04.12; Special Permit Required.**
- 10) **8.02.2; Alteration or Extension, Special Permit Required** of the Zoning By-Law to construct a garage including ancillary driveway, retaining wall and stairway structures within the required front yard per plans at **53 WESTBOURNE TERRACE BRKL.**

Said Premise located in a **T-5** District.

The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in programs and services of the Town of Brookline are invited to make

their needs known to the ADA Coordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2330; TDD (617) 730-2327.

**Diane R. Gordon
Harry Miller
Bailey S. Silbert**

At the time and place specified in the notice, a public hearing was held by this Board. Present at the hearing was Chair, Harry S. Miller and Board members Bailey Silbert and Jesse Geller. John Pound, owner of the subject property, accompanied by his designer, Michael Samra, presented the case before the Board.

Mr. Pound described the site as steeply sloping toward the street. The home is a single family, two story residence with no off-street parking due to the topography of the lot. The home is located approximately 650 feet NW of Beacon Street, directly across from the Driscoll Elementary School. There is currently a four foot retaining wall on the front lot line and access to the property is by a steeply sloped set of stairs. The neighborhood consists mainly of single and two-family homes. Mr. Pound stated that several of the homes in the neighborhood have parking in the front yard setback. He said that the property has beautiful landscaping and that he was concerned about the loss of landscaping due to the creation of parking. Mr. Pound said that his designer created a concept that would preserve as much of the landscape as possible and provide safe access and backing-out of the driveway. Since the driveway is more or less parallel to the street the Mr. Pound felt it would be safer than the other driveways, especially given the proximity to the school. Mr. Pound mentioned attractive stone walls, additional landscaping, safe parking and a driveway parallel to the street as some of the benefits of this proposal. Mr. Samra described the structure, walls and new access to the home. He stated that with this design only

one of the existing mature trees would have to be removed. The required retaining wall at the driveway would be of versa-loc or similar material. The driveway and area between the stairway and street would consist of pervious concrete pavers thereby allowing the absorption of run-off and also a pleasing blend between the walls and horizontal surfaces. Mr. Samra stated that the curb cut to accommodate the driveway would be approximately 19 feet.

The Chair then asked whether anyone wished to speak in favor or opposition. No-one rose to speak.

Board member Bailey Silbert commented on the versa-loc type retaining wall stating the design was pleasing, minimized the disturbance in the front yard and was stamped by a registered professional engineer. Mr. Silbert also noted that the attractive design, in his opinion, provided the required counterbalancing amenity.

Planner, Adam Serafin, then reviewed the comments and recommendations of the Planning Board. He stated that the applicant wishes to construct a garage and driveway within the front yard setback, to allow for the onsite parking of two vehicles. As part of the proposal, the existing sloping front yard will be excavated approximately 18 feet back from the sidewalk, which will include the removal of the existing stone retaining wall and concrete walkway. A new concrete/versa-lok retaining wall will be constructed which will be 11'-6" at its highest point and taper down to 3' at its lowest point. The retaining wall will run parallel to the street on its northern side and curve toward the street on its southern side. The wall will be of a stone color to blend with the existing site. A one-car garage will be built on the northern side of the excavation, and will be 12'8" wide, 21' long and 12' high. A driveway will be constructed on the southern portion of the excavation which will lead to the garage door entrance, which will be

perpendicular to the street lot line. A new stairway with a stone façade will run along the street-facing side and over the top of the proposed garage, providing access to the front of the house. A door will be located on the side of the garage, underneath the stairway, which will allow for direct access to the sidewalk. The rooftop of the garage will be landscaped to blend in with existing front yard landscaping.

Relief is required from the following sections of the Zoning Bylaw:

Section 5.43 Exceptions to Yard and Setback Regulations

Section 5.50 Front Yard Requirements

Section 5.51 Projections into Front Yards, Variance Required

Section 5.52 Fences and Terraces in Front Yards

Section 5.53 Accessory Buildings in Front Yards

Section 5.60 Side Yard Requirements

Section 5.63 Accessory Buildings or Structures in Side Yards

No part of any accessory building or structure situated within 75 feet of the street line shall extend into any required side yard*

Proposed Garage/Driveway	Required	Proposed	Relief
Front Yard Setback	15 feet	0 feet	S.P./Variance*
Projection into Front Yards	3.5 feet	15 feet	S.P./Variance*
Fences/Terraces in Front Yard	7.5 feet	0 feet	S.P./Variance*
Accessory Buildings in Front Yard	Not Permitted	Yes	S.P./Variance*
Side Yard Setback	7.5 feet	0 feet	S.P./Variance*
Projection into Side Yards	4 feet (allowed)	7.5 feet	S.P./Variance*

* A special permit under **Section 5.43** to waive dimensional requirements may be granted provided that counterbalancing amenities are provided.

Section 6.04.4.f – Design of All Off-Street Parking Facilities

To ensure maximum pedestrian safety, the Planning Board and Board of Appeals, with technical input from the Building Commissioner and the Director of Engineering and Transportation, may require one or more of eight safety enhancements designed to ensure adequate sight lines and the safety of pedestrians, as well as other vehicles, as condition for a special permit.**

Section 6.04.9.b – Design of All Off-Street Parking Facilities

The area of the lot not landscaped and so maintained, including driveways, shall be graded, surfaced with asphalt or other suitable material, and drained to the satisfaction of the Building

Commissioner, to the extent necessary to prevent nuisance of dust, erosion, or excessive water flow across public ways.**

Section 6.04.5.c.1 – Design of All Off-Street Parking Facilities

Section 6.04.5.c.2 – Design of All Off-Street Parking Facilities

Proposed Driveway	Required	Proposed	Relief
Parking/Driveway Front Setback	15 feet	0 feet	S.P./Variance**
Parking/Driveway Side Setback	5 feet	2 feet	S.P./Variance**

**Under Section 6.04.12 the Board of Appeals may waive dimensional requirements for parking facilities to serve existing buildings by Special Permit.

Section 8.02.2 - Alteration or Extension

A special permit may be granted under Section 8.02.2 to alter or enlarge a non-conforming condition.

Mr. Serafin then gave the Planning Board comments. He said they were generally supportive of this proposal to construct a garage and driveway within the front yard setback. The steep topography of the lot eliminates the option of parking vehicles to the side or rear of the house, and provides justification for front yard parking. The proposed garage, driveway, and retaining wall are attractive and sensitive in their design to allow for maximum preservation of landscaping. Additionally, the unique siting of the driveway and garage, which are perpendicular to the streetscape, will allow for adequate sight lines and safe ingress/egress of vehicles from the site. This driveway scheme is of particular merit, as the property is located across the street from the entry drive for Driscoll Elementary School. However, the Board felt that certain aspects of the proposed plans can be improved upon. The design of the stairway/retaining wall/garage in the plans is inconsistent with the renderings provided by the applicant. Additionally, the curb cut and driveway width could be reduced to better accommodate the desired design. Final material selection for the garage façade, driveway, garage door and retaining wall will also need to be

determined. The applicant should modify the plans to address these issues, subject to the review and approval of the Board. As a counterbalancing amenity for setback relief, the applicant will be providing landscaping atop the proposed garage, as well as a stone-façade wall along the streetscape.

Mr. Serafin stated that the Planning Board recommends approval of the plans, in concept, titled "Pound Residence, 53 Westbourne Terrace", prepared by Michael David Moroney of Studio Troika, Inc., dated 11 July 2006, subject to the following conditions:

1. **Prior to obtaining a building permit, the applicant shall submit to the Planning Board for review and approval, final plans and elevations showing the design and materials of the garage façade, garage door, driveway, stairway, curb cut (no greater than 20 feet in width), handrails, exterior lighting and retaining wall.**
2. **Prior to the issuance of a building permit, a final landscaping plan, showing all counterbalancing amenities, shall be submitted for the review and approval of the Assistant Director for Regulatory Planning.**
3. **Prior to obtaining a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: 1) a final site plan showing dimensions stamped and signed by a registered architect or land surveyor, and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.**

The Chair called on Frank Hitchcock representing the Building Department. Mr. Hitchcock stated that all the relief required could be provided by Special Permit. He briefly described the neighborhood, its topography and the problems related to the lack of off street parking. Mr. Hitchcock stated that a Special Permit under **Section 5.43** would waive the dimensional requirements of **Sections 5.50, 5.51, 5.52, 5.53, 5.60 and 5.63**. The addition of roof-top landscaping and the stone-façade wall along the streetscape would fulfill the requirement for counterbalancing amenities. A Special Permit under **Section 6.04.12** would

waive the dimensional requirements for parking facilities to serve existing buildings under **Sections 6.04.5.c.1 and 6.04.5.c.2**. Because the structure is pre-existing, non-conforming, a Special Permit under **Section 8.02.2** is also required. He stated that the Building Department had no objections to the proposal, the relief required or to the conditions recommended by the Planning Board.

The Chair then asked Mr. Pound if he wished to make a closing statement and he declined. The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that it is desirable to grant a Special Permits in accordance with **Sections 5.43, 6.04.12 and 8.02.2** of the Zoning By-law and makes the following findings pursuant to **Section 9.05**:

- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- e. The development as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people.

Accordingly, the Board voted unanimously to grant the requested relief subject to the following conditions:

1. **Prior to obtaining a building permit, the applicant shall submit to the Planning Board for review and approval, final plans and elevations showing the design and materials of the garage façade, garage door, driveway, stairway, curb cut (no greater than 20 feet in width), handrails, exterior lighting and retaining wall.**
2. **Prior to the issuance of a building permit, a final landscaping plan, showing all counterbalancing amenities, shall be submitted for the review and**

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Unanimous Decision of
The Board of Appeals




Harry S. Miller

Filing Date: March 19, 2007

A True Copy:

ATTEST



Patrick J. Ward
Clerk, Board of Appeals